IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

OP.No. 33183 of 2002(A)
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PETITIONER:
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N.C.K. MENON, 8C, AUTUM DALE,
VIDYA NAGAR, COCHIN 682 020

BY ADV. SRI.GEORGE THOMAS (MEVADA)
SRI.BABI KURUVILLA

RESPONDENTS:
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1. ASST. COMMISSIONER OF CUSTOMS
APPRAISING (IMPORTS), OFFICE OF THE COMMISSIONER
OF CUSTOMS, CUSTOM HOUSE, COCHIN 682 009

2. THE COLLECTOR OF CUSTOMS (APPEAL),
CUSTOM HOUSE, W-ISLAND. COCHIN 682009

BY ADV. SRI.P.S.SREEDHARAN PILLAI, SCGSC
SRI.JOHN VARGHESE, SCGSC
SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO. 56183/02 IN O.P.NO.33183/02

DISMISSED

20.6.2007. SD/- KURIAN JOSEPH, JUDGE.

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1 : TRUE COPY OF THE INVOICE DT. 14.1.1980.

EXT.P2 : TRUE COPY OF THE INVOICE OF NASIR BIN KHALID AL-THANI & SONS DT. 14.9.1980.

EXT.P3 : TRUE COPY OF THE BILL FOR ENTRY DT. 24.11.1999.

EXT.P4 : TRUE COPY OF THE COVERING LETTER ISSUED BY THE FIRST RESPONDENT DT. 29.1.2001.

EXT.P5 : TRUE COPY OF THE ORDER OF ASSESSMENT ISSUED BY THE FIRST RESPONDENT.

EXT.P6 TRUE COPY OF THE MEMORANDUM OF APPEAL FILED BEFORE THE 2ND RESPONDENT.

EXT.P7 TRUE COPY OF THE ORDER DT. 13.6.2002.

TGS

**KURIAN JOSEPH J.**

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**O.P. NO.33183 OF 2002**

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**Dated 20th June, 2007.**

**J U D G M E N T**

Ext.P7 order passed by the second respondent Collector of Customs(Appeals) is under challenge. As per the said order, the second respondent has rejected the appeal filed by the petitioner(Ext.P6) as time barred. The stand taken in Ext.P7 is that Bill of Entry has already been issued to the petitioner as early as in 1999 and he has paid duty also on 16.12.1999, and therefore, the appeal filed on 24.4.2001 is time barred. I am afraid, the stand cannot be appreciated. Going by Rule 3(3) of the Customs (Appeals) Rules, 1982, the appeal should be accompanied by a copy of the decision or order appealed against. The copy of the decision/order appealed against is Exts.P4 and P5 dated 29.1.2001. It is stated in Ext.P5 that “The Bill of Entry is assessed as above and this order is issued on the request of the importer for an appealable order”. There is no case that Ext.P6 appeal is not filed within time, if the period is counted with reference to Ext.P5, which is the order to be appealed against. I quash Ext.P7 with a direction to the second respondent to consider Ext.P6 appeal on merits and pass appropriate orders

thereon in accordance with law with notice to the petitioner within three months from the date of production of a copy of the judgment.

The writ petition is disposed of as above.

**KURIAN JOSEPH, JUDGE.**

**tgs**

**KURIAN JOSEPH, J.**

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**O.P. NO.33183 OF 2002 (A)**

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**J U D G M E N T**

**Dated 20th June, 2007.**